

Senate Study Bill 1237 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

1 An Act requiring drug testing of applicants for and certain
2 recipients of assistance under the family investment
3 program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 239B.2A Drug testing.

2 1. For the purposes of this section, unless the context
3 otherwise requires:

4 a. *"Confirmed positive test result"* means the results of a
5 urine, hair, or sweat test in which the level of drugs or their
6 metabolites in the sample analyzed meets or exceeds nationally
7 accepted standards for determining detectable levels of drugs
8 as adopted by the federal substance abuse and mental health
9 services administration.

10 b. *"Drug"* means tetrahydrocannabinol, cocaine, opiates,
11 phencyclidine, benzodiazepines, barbiturates, methamphetamine,
12 and amphetamines.

13 c. *"Licensed substance abuse treatment program"* means an
14 inpatient or outpatient substance abuse treatment program
15 licensed by the department of public health under chapter 125.

16 d. *"Sample"* means a sample from the human body capable of
17 revealing the presence of drugs, or their metabolites, which
18 shall include only urine, hair, or sweat.

19 2. a. The drug testing requirements of this section apply
20 to applicants for and participants in the family investment
21 program under this chapter who are reasonably suspected of
22 using drugs, who have been reported as using drugs, or who
23 have been arrested within the preceding six months of the
24 application.

25 b. The drug testing requirements of this section do not
26 apply to the following applicants or participants under this
27 chapter:

28 (1) Dependent children under the age of eighteen years.

29 (2) Adults eligible for Medicare based on the adult's age.

30 c. The department shall require a nine panel drug test to
31 screen a person who is subject to this section for the presence
32 of drugs. The person is responsible for the initial cost of
33 the person's drug test. If the person has a confirmed positive
34 test result, the person shall be responsible for the cost of
35 the drug test. If the person's drug test does not result in a

1 confirmed positive test result, the cost of the test shall be
2 reimbursed to the person in the next deposit of benefits.

3 3. A person who is subject to this section shall be subject
4 to a background check by the department. The background check
5 may include a state criminal history background check and a
6 national criminal history check through the federal bureau of
7 investigation.

8 4. A person who is subject to this section is ineligible to
9 receive assistance under this chapter if the person does not
10 participate in the required drug testing or background check.

11 5. The department shall do all of the following in
12 implementing this section:

13 a. Develop a survey required for applicants and participants
14 in the family investment program to screen for potential drug
15 use.

16 b. (1) Provide notice of drug testing to each person who is
17 subject to this section who is reasonably suspected of using or
18 has been reported as using drugs. The notice shall advise the
19 person that drug testing will be conducted as a condition to
20 receive or to continue to receive assistance under this chapter
21 and that the person must bear the cost of testing. The notice
22 shall also advise the person that if the person has a confirmed
23 positive test result, the person shall be responsible for the
24 cost of the drug test and if the person's drug test does not
25 result in a confirmed positive test result, the cost of the
26 test shall be returned to the person in the next deposit of
27 benefits.

28 (2) Advise each person to be tested, before the test
29 is conducted, that the person may, but is not required to,
30 advise the agent administering the test of any prescription or
31 over-the-counter medication the person is taking.

32 (3) Require each person to be tested to sign a written
33 acknowledgment that the person has received and understood the
34 notice and advice provided under this paragraph "a".

35 c. Assure that each person being tested has a reasonable

1 degree of dignity while producing and submitting a sample for
2 drug testing, consistent with the department's need to ensure
3 the reliability of the sample.

4 *d.* Adopt rules specifying circumstances under which a person
5 with a confirmed positive test result has the right to retake
6 the drug test.

7 *e.* Inform a person who has a confirmed positive test result
8 and is deemed ineligible for assistance that the person may
9 not reapply for assistance until one year after the date of
10 the confirmed positive test result unless the person meets the
11 requirements of paragraph "g".

12 *f.* Provide any person with a confirmed positive test result
13 with a list of licensed substance abuse treatment programs
14 available in the area in which the person resides. Neither the
15 department nor the state is responsible for providing or paying
16 for substance abuse treatment as part of the drug testing
17 conducted under this section.

18 *g.* A person with a confirmed positive test result who is
19 denied assistance under this chapter may reapply for assistance
20 after three months if the person can provide a confirmed
21 negative test result. The cost of any drug testing or
22 substance abuse treatment provided under this subsection shall
23 be the responsibility of the person being treated. A person
24 with a confirmed positive test result shall be ineligible to
25 receive assistance for one year after the date of a subsequent
26 confirmed positive test result unless the person meets the
27 requirements of paragraph "h".

28 *h.* A person with a subsequent confirmed positive test result
29 who is denied assistance under this chapter may reapply for
30 assistance after six months if the person can document the
31 successful completion of a licensed substance abuse treatment
32 program. A person who has met the requirements of this
33 paragraph and who reapplies for assistance shall be required
34 to take a subsequent drug test. Any drug test conducted while
35 the person is undergoing substance abuse treatment must meet

1 the requirements for a drug test under subsection 2. The cost
2 of any drug testing or substance abuse treatment provided under
3 this subsection shall be the responsibility of the person
4 being treated. If the person has a subsequent confirmed
5 positive test result, the person shall be ineligible to receive
6 assistance for one year after the date of the subsequent
7 result.

8 5. a. If an applicant or participant parent is deemed
9 ineligible for assistance as a result of having a confirmed
10 positive test result from a drug test conducted under this
11 section, the eligibility of the applicant's or participant's
12 dependent child for assistance is not affected.

13 b. An appropriate protective payee shall be designated
14 to receive assistance on behalf of the dependent child. The
15 parent may choose to designate a person as the protective
16 payee. The person designated by the parent as the protective
17 payee must be a specified relative or other immediate family
18 member unless such family member is not available or the
19 family member declines the designation, in which case another
20 person, approved by the department, shall be designated as
21 the protective payee. If the designated person is reasonably
22 suspected of using drugs, has been reported as using drugs,
23 or has been arrested within the preceding six months, the
24 designated person must also undergo drug testing before being
25 approved to be the protective payee. If the designated person
26 has a confirmed positive test result, the designated person
27 shall be ineligible to be the protective payee.

28 6. The department shall adopt rules to implement this
29 section.

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EXPLANATION

31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill creates a provision for drug testing of family
34 investment program (FIP) applicants and participants who are
35 suspected of drug use, or who have been arrested within the

1 preceding six months of the application for benefits. The
2 bill defines "drug" as tetrahydrocannabinol, cocaine, opiates,
3 phencyclidine, benzodiazepines, barbiturates, methamphetamine,
4 and amphetamines. The bill directs the department of
5 human services to develop a survey to screen applicants and
6 participants for potential drug use. The bill requires the
7 department to require a nine panel drug test for a person
8 subject to drug testing under the bill, and requires that the
9 person be advised that the person shall be tested for drug use
10 and that the person has the option to not submit to the test
11 if the person does not apply for benefits. The person being
12 tested shall sign an acknowledgment stating they understand the
13 testing and that they are required to pay for the test. The
14 bill provides an applicant or participant shall also be subject
15 to a background check.

16 If the person tests positive for a drug, the person is
17 ineligible to apply for FIP benefits for three months if the
18 person can provide a confirmed negative test result. If the
19 person tests positive for a drug a second time, the person is
20 ineligible to receive benefits for a period of six months.
21 However, after six months, the person may reapply if the person
22 can document successful participation in a licensed substance
23 abuse treatment program. Upon showing successful completion of
24 a substance abuse treatment program, the person must submit to
25 another drug test. If the test result is negative, the person
26 may apply for benefits. If the person tests positive for a
27 drug a third time, the person is ineligible to receive benefits
28 for one year.

29 The bill provides that if the parent or guardian of a child
30 is suspected of drug use and required to submit a drug test
31 that returns positive results, the child will remain eligible
32 for benefits. The parent, guardian, or department may appoint
33 a person who will receive the benefits on behalf of the child.
34 If the parent or guardian appoints a person where there is
35 reasonable suspicion of illegal drug use, that person will

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1 be required to undergo the same testing that the parent or
2 guardian underwent before the disbursements of funds can occur.
3 The bill exempts persons who are under the age of 18 and adults
4 eligible for Medicare based on the adult's age from being drug
5 tested.